

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ACHILLES D. CORELLEONE,)	Civil No. 07cv2094-L(NLS)
)	
Plaintiff,)	ORDER GRANTING MOTION TO
)	PROCEED <i>IN FORMA PAUPERIS</i>
v.)	[doc. #2]; DEFERRING
)	PLAINTIFF'S MOTION FOR
STATE OF CALIFORNIA, <i>et al.</i> ,)	PRELIMINARY INJUNCTION [doc.
)	#3]; and DIRECTING U.S.
Defendants.)	MARSHAL TO EFFECT SERVICE
)	OF PROCESS

Plaintiff, appearing *pro se*, filed the above-captioned case and seeks leave to proceed *in forma pauperis* under 28 U.S.C. § 1915. Plaintiff alleges a violation of his constitutional rights under 42 U.S.C. § 1983 against defendants the State of California, City of San Diego, and the County of San Diego. Plaintiff contends that California Penal Code Section 647(e) was determined to be unconstitutionally vague in *Kolender v. Lawson*, 461 U.S. 352 (1983) and yet defendants are still enforcing Section 647(e) in violation of the Fourteenth Amendment. Plaintiff also seeks a preliminary injunction.

1. *In forma pauperis* review

Plaintiff is currently unemployed, receives \$313.48 every two weeks from Workers Compensation, and receives aid from churches, food banks, and a homeless shelter. The only asset Plaintiff has of value is a 1991 Oldsmobile Cutlass Ciera. Given these circumstances, the Court grants plaintiff's request to proceed *in forma pauperis*.

1 **2. Motion for preliminary injunction**

2 The Court will defer consideration of plaintiff's motion for preliminary injunction until
3 after the summons, complaint and this Order are served on defendants. When all defendants
4 have been served, the Court will issue an order to show cause why a preliminary injunction
5 should not be granted.

6 **3. Conclusion**

7 The Court hereby orders as follows:


8 (1) The request to proceed *in forma pauperis* is **GRANTED**.

9 (2) The United States Marshal shall serve a copy of the complaint, summons, and order
10 granting leave to proceed *in forma pauperis* upon each defendant as directed by plaintiff on U.S.
11 Marshal Form 285. All costs of service shall be advanced by the United States.

12 (3) Plaintiff shall serve upon each defendant or, if appearance has been entered by
13 counsel, upon defendant's counsel, a copy of every further pleading or document submitted for
14 consideration by the Court. Plaintiff shall include with the original paper to be filed with the
15 clerk of the court a certificate stating the manner in which a true and correct copy of any
16 document was served on defendant(s) or counsel for defendant(s) and the date of service. Any
17 paper received by a district judge or a magistrate judge that has not been filed with the Clerk of
18 Court or which fails to include a certificate of service will be disregarded by the Court.

19 **IT IS SO ORDERED.**

20 DATED: November 21, 2007

21 
22 M. James Lorenz
United States District Court Judge

23 COPY TO:

24 HON. NITA L. STORMES
25 UNITED STATES MAGISTRATE JUDGE

26 ALL PARTIES/COUNSEL
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